

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

LOCKE MELLOTT,

Defendant.

MJ-16-29-GF-JTJ

ORDER AND JUDGMENT OF
ACQUITTAL

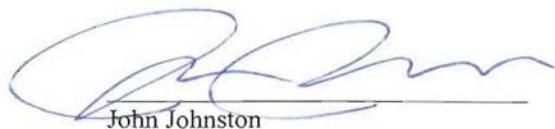
On October 18, 2016, the undersigned presided over a bench trial in the above captioned case. The United States of America charged Defendant Locke Mellott with unlawful taking of an endangered species in violation of 16 U.S.C. §§ 1538(a)(1)(G) and 1540(b)(1) and 50 C.F.R. § 17.40(b)(1)(i)(A). This charge requires the United States to prove beyond a reasonable doubt that Mr. Mellott (1) knowingly took a bear; (2) the bear was a grizzly; (3) Mr. Mellott had no permit from the United States Fish and Wildlife Service to take the bear; and (4) Mr. Mellott did not act in self-defense or in the defense of others. The parties agreed that the first three elements were not in dispute. Therefore, the dispositive issue at trial was whether Mr. Mellott acted in self-defense or the defense of others when he shot the grizzly bear.

A defendant is not liable for a violation of the Endangered Species Act “if the defendant committed the offense on a good faith belief that he was acting to protect himself or any other individual from bodily harm from any endangered or threatened species.” 16 U.S.C. § 1540(b)(3). The defendant’s good faith belief must be objectively reasonable. *Keiser*, 57 F.3d at 847. “Once a defendant introduces evidence of self-defense, the burden shifts to the government to disprove it beyond a reasonable doubt.” *United States v. Keiser*, 57 F.3d 847, 851 n.4 (9th Cir. 1995).

Mr. Mellott testified that he was afraid for his own safety and the safety of his unarmed hunting partner when he shot the grizzly bear. This testimony was sufficient to shift the burden to the government to disprove Mr. Melott’s claim beyond a reasonable doubt. Mr. Mellott further testified that when he first encountered the grizzly bear, he was between thirteen and twenty yards from the bear. The United States failed to prove beyond a reasonable doubt that given the short distance between the bear and himself and his hunting partner, that Mr. Mellott’s belief that he was acting in defense of himself and his unarmed hunting partner was not objectively reasonable. Thus, the United States failed to meet its burden to prove each element of the charge beyond a reasonable doubt. Therefore, the Court finds Mr. Mellott not guilty of the charge.

Accordingly, **IT IS HEREBY ORDERED** that Locke Merlott is
ACQUITTED of the charge in the Information.

DATED this 20th day of October 2016.



John Johnston
United States Magistrate Judge